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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,199	08/27/2003	Yuan-Fen Chung	BHT-3092-384	3471

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FALLS CHURCH, VA 22041

EXAMINER

HAQ, NAEEM U

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,199

Applicant(s)

CHUNG, YUAN-FEN

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1: The preamble of this claim is directed to method. However, the Examiner notes that the body of the claim does not recite any method steps but rather recites a series of procedures (i.e. code) for performing a variety of functions. Furthermore, Applicant's specification discloses that Figure 1 shows the "architecture" of the present invention ([0011]). Therefore, it is unclear to the Examiner what steps the Applicant is attempting to claim. For examination purposes, the Examiner will assume that claim 1 is directed to a computer program rather than a method because the claim

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and specification appear to be directed to a computer program. Claims 2-8 are rejected under a similar analysis.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As noted above, claims 1-8 appear to be directed to a computer program rather than a method. Based on this analysis, claims 1-8 are deemed to be non-statutory because they recite functional descriptive material (i.e. computer program) that does not impart functionality when employed as a computer component because the functional descriptive material is not tangibly embodied on a computer-readable medium. (See MPEP 2106(IV)(B)(1)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (US 6,167,383).

Referring to claim 1: Henson discloses a method of placing order for product with specific composition via online shopping; comprising the steps of: a logon procedure, for a purchaser to enter into the website through Internet (col. 4, lines 35-59); an order placement procedure for opening a web page and selecting a desired purchase item, and further opening each ingredient and its price of the product with specific composition, and allowing the purchaser to specify the type and proportion of ingredients, and then the web page calculating the price for the purchaser's confirmation (Figure 3A, "Storage Products"; Figure 6, item "104"); a confirmation procedure, for opening a web page indicating a price; after the purchaser specifying the order, the web page showing the price for the purchaser's confirmation (Figure 6, item "104"); and a billing procedure, for allowing the purchaser to confirm the purchase quantity and the way of making payment, and then ending the purchase order (Figures 7-10). Henson does not teach that the confirmation procedure is a "package" procedure, that the web page is "packaging" web page, or that the web pages indicates a plurality of packaging styles and patterns. However, the Examiner notes that this limitation is not functionally involved in the elements of the recited program. Therefore this limitation is deemed to be nonfunctional descriptive material. The program would be performed the same regardless of what information was displayed on the web page. The difference between the content of the Applicant's invention and the prior art is merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)

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also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to place any information in the webpage of Henson because such information does not functionally relate to the elements of the claimed program and because the subjective interpretation of information does not patentably distinguish the claimed invention.

Referring to claim 2: Henson teaches or suggests all the limitations of claim 1.

Furthermore, Henson teaches a basic information establishment procedure for the purchaser to enter related personal information for the purchase of the first time (Figures 7-10).

Referring to claim 3: Henson teaches or suggests all the limitations of claim 1.

Furthermore, Henson teaches wherein said logon procedure requires a password to log on (col. 14, lines 35-41).

Referring to claims 4 and 7: Henson teaches or suggests all the limitations of claim 1.

Furthermore, Henson teaches wherein said order placement procedure returns to a previous screen for selection if confirmation is not made (Figure 6, item "106": "Continue Shopping").

Referring to claims 5 and 6: Henson teaches or suggests all the limitations of

claim 1. Henson does not teach wherein said order placement procedure adds a web page for suggesting the proportion of the ingredients for the purchaser's choice, or that the confirmation procedure has separate web pages for packaging material and pattern styles. However, the Examiner notes that this limitation is not functionally involved in the elements of the recited program. Therefore this limitation is deemed to be

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nonfunctional descriptive material. The program would be performed the same regardless of what information was displayed on the web page. The difference between the content of the Applicant's invention and the prior art is merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to place any information in the webpage of Henson because such information does not functionally relate to the elements of the claimed program and because the subjective interpretation of information does not patentably distinguish the claimed invention.

Referring to claim 8: Henson teaches or suggests all the limitations of claim 1. Furthermore, Henson teaches the confirmation of purchase quantity, total price, way of making payment, delivery date, and transportation method (Figures 7-10).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pond can be reached on (571)-272-6760. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Naeem Haq', with a large, stylized initial 'N' and a long horizontal flourish extending to the right.

Naeem Haq, Patent Examiner
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March 20, 2006